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HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

SINGLE BENCH : HON'BLE SHRI S.R. NAYAK, CJ.

Writ Petition No.2291 OF 2006

PETITIONER Smt. Shushila Ahuja
W/o. Shri Ramesh Ahuja, Aged 48 years, R/o. Near Satkar Hotel, Station Road, Raipur, Tahsil and District Raipur (C.G.)

Vs.

RESPONDENTS

1. Sarita Jain
W/o. Baijnathpara, Chikni Mandir Chowk, Raipur, Tahsil and District Raipur (C.G.)
2. The Board of Revenue
Through: The Chairman Board of Revenue, Circuit Court Riapur (C.G.)

Present : Shri R. Pradhan, learned counsel for the petitioner.
Shri Yashwant Tiwari, learned counsel for respondent No.1.
Shri Sanjay S. Agrawal, learned G.A. for respondent No.2.

ORAL ORDER
(Passed on 3rd July, 2006)

The way the Board of Revenue has conducted the proceedings, if I may say so, is quite objectionable. Facts are not in dispute. On 07.11.2005, the first respondent herein was placed *ex parte* . Same day the Board of Revenue granted interim order in favour of the petitioner herein and the appeal was listed for final hearing on 14.02.2006. On 14.02.2006, the Board of Revenue heard the arguments, reserved judgment and fixed the case on 27.02.2006 for pronouncement of the order. But, quite curiously on 27.02.2006 instead of pronouncing the order, the Board of Revenue *suo motu* vacated the interim order granted on 07.11.2005 on the ground that the appellant/petitioner was not present when the case was called. In addition, the Board of Revenue also directed fresh notice to respondent

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No.1 on coming to know that well before 07.11.2005, the first respondent had lodged caveat and was represented by a counsel.

(2) Even assuming that the Board of Revenue had good reason to think that its order dated 07.11.2005 placing the first respondent *ex parte* was not justified, even then, the principles of natural justice and fair play in action required the Board of revenue to notify the petitioner to have his say in the matter before passing appropriate order. Such a legitimate course open to the Board of Revenue was not adhere to. The Board of Revenue not only vacated the interim order but also directed notice to the parties without recalling its earlier order 07.11.2005. In that view of the matter, I think that the ends of justice would be met by setting aside the order made by the Board of Revenue on 27.02.2006 and to take appropriate further steps after notice to both the sides.

(3) In the result, the writ petition is allowed. The impugned order dated 27.02.2006 is set aside. No costs. I am told that the Board of Revenue has fixed the case on 24.07.2006 for hearing. On that day, both the parties shall appear before the Board of Revenue without any further notice from the Board of Revenue. On that day, the parties shall argue on continuation of interim order passed on 07.11.2005 and/or recalling the order made on 07.11.2005 placing the first respondent *ex parte*. The Board of Revenue shall dispose of the main appeal itself expeditiously, at any rate, within a period of three months from the date of receipt of a copy of this order.

Sd/-
Chief Justice

brs/sbs